IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2895 OF 2006

Mr.Sunil Sonaba Modak & Anr. ..Petitioners
(Orig.Defendant)

Vs.

Somwar Peth Namdeo Shimpi
Samaj Daivya Mandal Trust ..Respondents
(Orig.Plaintiff)

Mr.Vijayarao Kale with Mr.R.S.Kate for the Petitioners.

Mr.D.M.Gupte for Respondent No.1.

CORAM : S.J. VAZIFDAR, J.
DATED : 29TH JANUARY, 2007

P.C. :

Rule, returnable forthwith and heard.

2. The impugned order warrants no interference. It certainly does not warrant interference at this stage.

3. The learned Judge has furnished detailed reasons for the application for additional evidence under Order 41 Rule 27 of the C.P.C. The fact of another tenant having been proceeded against by the Respondents was averred in the written statement itself. The Petitioner did not pursue this factual

aspect before the trial Court.

4. Mr.Gupte, the learned counsel appearing on behalf of the Respondents, makes a statement that even today the Respondents have not obtained possession of the premises from the other tenant though a decree has been passed by the trial Court against him.

5. In any event, it is always open to the Petitioner to challenge this order from the final judgment of the Appeal Court, if necessary.

6. In the circumstances, Writ Petition is dismissed.